

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

DANNY TABB,

Plaintiff,

v.

NAPHCARE, et al.,

Defendants.

CASE NO. 3:21-cv-05541-LK-TLF

ORDER ADOPTING REPORT AND
RECOMMENDATION

This matter comes before the Court on the Report and Recommendation (“R&R”) of United States Magistrate Judge Theresa L. Fricke. Dkt. No. 176. Judge Fricke recommends that this matter be dismissed without prejudice for failure to prosecute and failure to comply with the Court’s Local Rules. *Id.* at 2. She also recommends that Defendants’ pending motion to dismiss be stricken or denied as moot. *Id.* at 2–3.

Mr. Tabb, who is proceeding pro se and *in forma pauperis*, filed this action under 42 U.S.C. § 1983 alleging, among other things, that he was denied medical care while incarcerated at the Pierce County Jail. Dkt. No. 121 at 7, 9–10, 13–14. Although Mr. Tabb vigorously pursued this case for over two years and filed notices updating his address when he moved, Dkt. Nos. 156, 160,

1 he recently stopped communicating with the Court. As Judge Fricke notes, the Postal Service
2 returned two of the Court's orders addressed to Mr. Tabb as undeliverable in May 2024. Dkt. No.
3 176 at 2; Dkt. Nos. 168–70. The Court entered an order to show cause on June 4, 2024 directing
4 Mr. Tabb to update his address by July 5, 2024, Dkt. 172, but that order was also returned as
5 undeliverable, Dkt. No. 173. Judge Fricke's R&R therefore recommends dismissal. Dkt. No. 176
6 at 2. The R&R was returned as undeliverable, Dkt. No. 177, and Mr. Tabb has not filed objections
7 to it.

8 The Court generally reviews findings and recommendations “*if objection is made*, but not
9 otherwise.” *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc). Even
10 so, the Court's independent review confirms that this action should be dismissed. A pro se litigant
11 must keep the Court and opposing parties advised of his current mailing address. LCR 41(b)(2). If
12 mail directed to a pro se plaintiff by the Clerk is returned by the Postal Service, and if the plaintiff
13 fails to notify the Court and opposing parties within 60 days thereafter of his current mailing
14 address, the Court may dismiss the action without prejudice for failure to prosecute. *Id.* That is the
15 case here. Multiple orders mailed to Mr. Tabb have been returned as undeliverable starting in May
16 2024, and more than 60 days have passed with no update as to his current address. Dkt. Nos. 168–
17 70, 173, 175, 177.

18 For the foregoing reasons, it is hereby ORDERED that:

19 (1) The Court ADOPTS the Report and Recommendation, Dkt. No. 176;

20 (2) Mr. Tabb's second amended complaint, Dkt. No. 121, is DISMISSED without
21 prejudice; and

22 (3) The Court DENIES as moot Defendants' pending motion to dismiss, Dkt. No. 151.

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1 The Clerk is directed to send uncertified copies of this Order to Mr. Tabb at his last known
2 address.

3 Dated this 31st day of July, 2024.

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5 Lauren King
6 United States District Judge
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